

Attorney or Party Name, Address, Telephone &amp; FAX Number, and MCAC Case Number

LAW OFFICES OF JEFFREY S. HOFFMAN  
 JEFFREY S. HOFFMAN (SBN #71240)  
 530 S Glenoaks Blvd Ste 201  
 Burbank, CA 91502  
 telephone (800) 756-5977  
 facsimile (800) 756-6561

 Individual appearing without counsel Attorney for: Valerie Cohen

**UNITED STATES BANKRUPTCY COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

In re:

VALERIE COHEN

CHAPTER: 7

CASE NO.: 2:12-bk-32532-RK

DATE: 11/9/2012  
 TIME: 11:00 AM  
 CTRM: 1675  
 FLOOR: 16TH

Debtor(s).

**RESPONSE TO MOTION FOR ORDER TO TERMINATE, ANNUL, MODIFY, OR CONDITION  
 THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 AND DECLARATION(S) IN SUPPORT  
 (MOVANT: Joseph Avesar, the Law Offices of Joseph Avesar Inc.)**

**(RESPONDENT:  Debtor     Trustee     Other: \_\_\_\_\_)**

**GENERAL NOTE:** A request for additional time is *not* usually an adequate response in opposition to the Motion. This Response and supporting declaration(s) and other admissible evidence must be filed with the Court and served pursuant to the Local Bankruptcy Rules.

1.  **NON-OPPOSITION:** Notice is hereby given that the Respondent does not oppose the granting of the Motion.

**NOTE:** If you do not oppose the Motion, there is no need to appear at the hearing scheduled in the Motion.

2.  **LIMITED OPPOSITION -- APPEARANCE REQUIRED:** Respondent opposes the Motion only to the extent that it seeks immediate relief from stay. Respondent requests that no lock out, foreclosure, or repossession shall take place before (specify date):

The reason for this request is (specify):

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3.  **OPPOSITION -- APPEARANCE REQUIRED:** Notice is hereby given that the Respondent opposes the granting of the Motion for the reasons set forth below.

a. Respondent disputes the allegations/evidence contained in the Motion. As shown in the Declaration(s) filed with this Response:

The value of the Property is \$ 356,224.63, based upon (specify):  
The declaration on movant Joseph Avesar

Total amount of debt (loans) on the Property is \$ -0-.

More payments have been made to Movant than the Motion has accounted for. True and correct copies of canceled checks proving the payments that have been made are attached as Exhibit \_\_\_\_\_.

The Property is necessary for an effective reorganization. Respondent has filed or intends to file a plan requiring the Property. A true and correct copy of the Plan is attached as Exhibit \_\_\_\_\_.

The Property is insured. A true and correct copy of the policy currently in effect is attached as Exhibit \_\_\_\_\_.

The Movant's description of the status of the unlawful detainer proceeding is not accurate. See attached Declaration for Respondent's evidence.

Respondent denies that this bankruptcy was filed in bad faith or improperly. See attached Declaration containing Respondent's evidence.

Debtor would be prejudiced if the lawsuit or administrative proceeding is allowed to continue outside the bankruptcy court. See attached Declaration regarding Respondent's contentions.

Service of the Motion:    Not all parties were served    Insufficient notice of the hearing

Incorrect address used for (specify) \_\_\_\_\_

Other (specify): \_\_\_\_\_

b. Respondent asserts:

Case has been converted from Chapter \_\_\_\_\_ to Chapter \_\_\_\_\_.

All postpetition arrears will be cured by the hearing date.

The Debtor has equity in the Property in the amount of \$ 356,224.63.

Movant has an equity cushion of \$ \_\_\_\_\_ which is sufficient to provide adequate protection.

The Property is necessary for an effective reorganization because (specify reasons why):

The Motion should be denied because (specify):

The funds sought by the Motion are funds that belong to the Debtor estate. Movant procured a judgment against Debtor in wilful violation of the automatic stay, said judgment is thus void. Movant is not entitled to annulment of stay because Movant willfully violated the stay, the Motion, inter alia, is not timely brought and Debtors case was not filed in bad faith. (see memorandum of points and authorities filed separately)

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## 4. EVIDENCE IN SUPPORT OF RESPONSE AND SUPPORTING PAPERS:

**NOTE RE SUPPORTING PAPERS:** Declarations in opposition to the Motion **MUST** be attached hereto. Any individual signing a declaration must have personal knowledge of the facts stated in it and should attach any supporting documents, if possible. You may attach a Memorandum of Points and Authorities if you desire, but it is not required.

**NOTE RE SERVICE OF RESPONSE AND SUPPORTING PAPERS:** Pursuant to the Local Bankruptcy Rules, you must file with the Bankruptcy Court Clerk this completed Response along with supporting declaration(s) signed under penalty of perjury, AND also serve a copy of the Response and declaration(s) on the Movant's attorney (or Movant, if no attorney), the Bankruptcy Trustee, the United States Trustee, and all other parties to the Motion.

Pursuant to the Local Bankruptcy Rules, attached hereto are the following papers in support of this Response:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Declaration by Debtor  | <input type="checkbox"/> Declaration by Debtor's Attorney                           |
| <input type="checkbox"/> Declaration by Trustee  | <input type="checkbox"/> Declaration by Trustee's Attorney                          |
| <input type="checkbox"/> Declaration by Appraiser  | <input checked="" type="checkbox"/> Memorandum of Points and Authorities (optional) |
| <input type="checkbox"/> Other (specify): such other information and evidence that may be presented at or before the time of hearing |   |

Dated:

Respectfully submitted,

VALARIE COHEN  
Respondent's Name

LAW OFFICES OF JEFFREY HOFFMAN  
Law Firm Name (if applicable)

By:

Signature

Name: Jeffrey Hoffman  
Attorney for Respondent or Pro Se Respondent

**DECLARATION OF VALERIE COHEN**

I, Valerie Cohen, declare:

I am the Debtor in the hereinabove identified bankruptcy case to which Joseph Avesar and the Law Offices of Joseph Avesar Inc. have filed a motion for (retroactive) relief of stay, and as such I am personally familiar with the facts set forth in this declaration, except as to those known to me on information and belief, whereby if called upon to do so, I could and would be able to competently testify to the following:

I make this declaration in support of my opposition to the motion for relief of stay and annulment of stay filed in my bankruptcy case by Joseph Avesar and the Law Offices of Joseph Avesar Inc..

In said motion Joseph Avesar and the Law Offices of Joseph Avesar Inc. claim that I am indebted to them for legal services and costs which include funds on deposit in the amount of \$356,224.63.

I dispute the claim of Joseph Avesar and the Law Offices of Joseph Avesar Inc. for legal services and costs, because, among other things, said legal services were not rendered.

I dispute the claim of Joseph Avesar and the Law Offices of Joseph Avesar Inc. for the funds on deposit in the amount of \$356,224.63 because said funds were derived from a check made payable to me as proceeds of the my settlement of a personal injury matter.

Further said proceeds were taken from me and concealed by Joseph Avesar under false pretenses and without my informed knowledge and consent.

I am informed and believe that said funds are property of my bankruptcy estate.

1 In 2005, I was seriously hurt in a fall for which Masselin West Apartments accepted  
2 responsibility, whereby, I employed attorney Joseph Avesar to represent me as to my personal  
3 injury claim.

4 I became concerned about whether or not I was being properly represented by Joseph  
5 Avesar in the ensuing litigation when, first, he fell sound asleep at my deposition, then failed to  
6 return my phone calls, then failed to provide me with paperwork, and then told me at a  
7 settlement conference that he had no idea of what my case was worth.

8 As the mother of four children having undergone four operations and procedures  
9 including the implant of a reflex sympathetic dystrophy stimulator to mitigate persistent pain  
10 and physical debilitation, and having been informed I would be permanently disabled, I decided  
11 that replacing Joseph Avesar would be in my best interests and that of my family.

12 I then employed attorney Ira Katz to take over my case after which I am informed and  
13 believe that Law Offices of Joseph Avesar Inc. initiated litigation against him.

14 I am informed and believe that Ira Katz settled my case for \$825,000.00 and initiated  
15 litigation against on my behalf against Joseph Avesar.

16 I am informed and believe that, on December 1, 2011, Ira Katz, pursuant to his own  
17 motion, was relieved by the Court, as my counsel and that from then on I was not represented in  
18 said litigation.

19 I am from France and do not speak or understand the English language fluently.

20 I do not understand the legal process and have not received enough from the personal  
21 injury settlement to pay for competent legal advice after paying the costs of basic subsistence  
22 for myself and my family.

I am informed and believe that the parties, their attorneys, and possibly the Court in the  
aforementioned litigation took advantage of my inability to understand and respond to the  
proceedings and violated the automatic stay arising from my bankruptcy filing.

I am informed and believe that Joseph Avesar and the Law Offices of Joseph Avesar Inc  
is subject to suit in the bankruptcy court

I did not file my bankruptcy case in bad faith specifically to delay, hinder or interfere  
with the prosecution of the non-bankruptcy actions referenced in the subject motion for relief of  
stay.

I declare under the penalty of perjury under the laws of the United States that the  
foregoing is true and correct.

Executed this 3<sup>rd</sup> day of October 2012, at Los Angeles, California.



Valerie Cohen

In re  
VALERIE COHEN

(SHORT TITLE)

CHAPTER: 7

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**NOTE:** When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on a CM/ECF docket.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

530 S Glenoaks Blvd Ste 201  
Burbank, CA 91502

A true and correct copy of the foregoing document described as RESPONSE TO MOTION FOR ORDER will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d), and (b) in the manner indicated below:

**I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On 10-25-12 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addressed indicated below:

Marcus G. Tiggs: mtiggs@lawbwl.com  
Lorraine M. Sarles: lorraine.sarles@alston.com  
James R. Seith: jim@wsrlaw.net  
Leib M. Lerner: leib.lerner@alston.com

Service information continued on attached page

**II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):

On 10-25-12 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Ira N. Katz  
Law Offices of Ira N. Katz  
9595 Wilshire Blvd. Ste 900  
Beverly Hills, CA 90212

Service information continued on attached page

**III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 10-25-12 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Robert Kwan  
U.S. Bankruptcy Court  
255 East Temple Street  
Los Angeles CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

<u>10-25-12</u>	<u>Maria Guerara</u>	<u>/S/ Maria Guevara</u>
<i>Date</i>	<i>Type Name</i>	<i>Signature</i>